

CHILD LABOR; MERCANTILE ESTABLISHMENTS

ARTICLE 2. CHILD LABOR

34:2-21.1. Definitions

- (a) "Employment certificate" means a certificate granted by the issuing officer authorizing the employment of a child as permitted under this act.
- (b) "Age certificate" means a certificate issued for a person between the ages of 18 and 21 years.
- (c) "Issuing officer" means any superintendent of schools, supervising principal, or teacher in a school district who is designated by the board of education in the district to issue certificates or permits in accordance with the provisions of this act.
- (d) "School district" means any geographical area having authority over the public schools within that area.
- (e) "Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in subsection (g) of section 15 of the Agricultural Marketing Act, 46 Stat. 11 (12 U.S.C. § 1141 et seq.), as amended), the planting, transplanting and care of trees and shrubs and plants, the raising of livestock, bees, fur-bearing animals or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market, provided that such practices shall be performed in connection with the handling of agricultural or horticultural commodities the major portion of which have been produced upon the premises of an owning or leasing employer.
- (f) "Newspaper carrier" means any minor between 12 and 18 years of age who engages in the occupation of delivering, soliciting, selling and collecting for, newspapers outside of school hours on residential routes.
- (g) "Restaurant" means any establishment or business primarily engaged in the preparation and serving of meals or refreshments, both food and drink, and shall include but not be limited to the following: dining establishments, catering establishments, industrial caterers, and drive-in restaurants.
- (h) "Theatrical production" means and includes stage, motion picture and television performances and rehearsals therefor.
- (i) "Seasonal amusement" means any exclusively recreational or amusement establishment or business which does not operate more than seven months in any calendar year or which has received during any consecutive six months of the preceding calendar year average receipts equal to or less than 33 1/3 percent of its average receipts for the other six months of that year. "Seasonal amusement" includes but is not limited to amusement rides and amusement device ticket sales, and operations of games. However, "seasonal amusement" does not include retail, eating or drinking concessions, camps, beach and swimming facilities, movie theatres, theatrical productions, athletic events, professional entertainment, pool and billiard parlors, circuses and outdoor shows, sport activities or centers, country club athletic facilities, bowling alleys, race tracks and like facilities which are not part of a diversified amusement enterprise.

34:2-21.2. Minors under 16 not to be employed; exceptions; nonresidents

No minor under 16 years of age shall be employed, permitted, or suffered to work in, about, or in connection with any gainful occupation at any time; provided, that minors between 14 and 16 years of age may be employed, permitted or suffered to work outside school hours and during school vacations but not in or for a factory or in any occupation otherwise prohibited by law or by order or regulation made in pursuance of law; and provided, further, that minors under 16 years of age may engage in professional employment in theatrical productions upon the obtaining of a permit therefor and may engage outside school hours and during school vacations in agricultural pursuits or in street trades and as newspaperboys as defined in this act, in accordance with the provisions of section 15 of this act. Minors may also engage in employment in domestic service performed outside of school hours or during school vacations with the permission of the minor's parents or legal guardian, in a residence other than the minor's own home. Nothing in this act shall be construed to apply to the work of a minor engaged in domestic service or agricultural pursuits performed outside of school hours or during school vacations in connection with the minor's own home and directly for his parents or legal guardian.

Except as to the employment of a minor for whom a theatrical employment permit has been issued, no minor under 16 years of age not a resident of this State shall be employed, permitted or suffered to work in any occupation or service whatsoever at any time during which the law of the state of his residence required his attendance at school, or at any time during the hours when the public schools in the district in which employment in such occupation or services may be available are in session.

34:2-21.2a. Repealed by L.1962, c. 91, §10

34:2-21.3. Minors under 18; hours of labor

Except as provided in section 15 of P.L.1940, c. 153 (C.34:221.15) and except for domestic service or messengers employed by communications companies subject to the supervision and control of the Federal Communications Commission, no minor under 18 years of age shall be employed, permitted, or suffered to work in, about, or in connection with any gainful occupation more than six consecutive days in any one week, or more than 40 hours in any one week, or more than eight hours in any one day, nor shall any minor under 16 years of age be so employed, permitted, or suffered to work before 7 a.m. or after 7 p.m. of any day, except a minor who is 14 or 15 years of age may work in a restaurant, supermarket or other retail establishment, or in any occupation not prohibited by the provisions of this act, P.L.1940, c. 153 (C.34:221.1 et seq.) or by regulations promulgated by the commissioner pursuant to this act, P.L.1940, c. 153 (C.34:221.1 et seq.), during the period beginning on the last day of a minor's school year and ending on Labor Day of each year until 9 p.m. of any day with written permission from a parent or legal guardian, and except a minor who is 14 or 15 years of age may be employed as a little league umpire for little leagues chartered by Little League Baseball, Incorporated, until 9 p.m. of any day with written permission from a parent or legal guardian; nor shall any minor between 16 and 18 years of age be so employed, permitted, or suffered to work before 6 a.m. or after 11 p.m. of any day; provided that minors between 16 and 18 years of age may be employed after 11 p.m. during any regular vacation season, and on days which do not precede a regularly scheduled school day, with a special written permit from their parents or legal guardian stating the hours they are permitted to work; provided that minors between 16 and 18 years of age may be employed in a seasonal amusement or restaurant occupation after 11 p.m. and following 12:01 a.m. of the next day, if that employment is a continuation of a workday which began before 11 p.m., either during any regular school vacation season, or on workdays which do not begin on a day which precedes a regularly scheduled school day, with a special written permit from their parents or legal guardian stating the hours they are permitted to work, except that in no case shall minors between 16 and 18 years of age be employed after 3 a.m. or before 6 a.m. on a day which precedes a regularly scheduled school day; provided, further, that minors may be employed in a concert or a theatrical performance up to 11:30 p.m.; and provided, further, that minors not less than 16 years of age and who are attending school may be employed as pinsetters, lane attendants, or busboys in public bowling alleys up to 11:30 p.m., but may not be so employed during the school term without a special written permit from the superintendent of schools or the supervising principal, as the case may be, which permit shall state that the minor has undergone a complete physical examination by the medical inspector, and, in the opinion of the superintendent or supervising principal, may be so employed, without injury to health or interference with progress in school, such special permits to be good for a period of three months only and are revocable in the discretion of the superintendent or supervising principal. Such permit may not be renewed until satisfactory evidence has been submitted to the superintendent or supervising principal showing that the minor has had a physical examination and the minor's health is not being injured by said work; and provided, further, that minors between 16 and 18 years of age may not be employed after 10 p.m. during the regular school vacation seasons in or for a factory or in any occupation otherwise prohibited by law or by order or regulation made in pursuance of law. The hours of work of minors under 16 employed outside school hours shall not exceed three hours in any one day when school is in session and shall not exceed in any one week when school is in session the maximum number of hours permitted for that period under the federal "Fair Labor Standards Act of 1938," 29 U.S.C.s.201 et seq., and regulations promulgated pursuant to that federal act.

This section is not applicable to the employment of a minor between 16 and 18 years of age during the months of June, July, August or September by a summer resident camp, conference or retreat operated by a nonprofit or religious corporation or association, unless the employment is primarily general maintenance work or food service activities.

34:2-21.4. Lunch period for minors under 18

No minor under eighteen years of age shall be employed or permitted to work for more than five hours continuously without an interval of at least thirty minutes for a lunch period, and no period of less than thirty minutes shall be deemed to interrupt a continuous period of work.

34:2-21.5. Posting of law, list of prohibited occupations and schedule of hours of labor; permitting minors to begin later or stop earlier than time stated in schedule

Every employer shall post and keep conspicuously posted in the establishment wherein any minor under 18 is employed, permitted, or suffered to work a printed abstract of this act and a list of the occupations prohibited to such minors, to be furnished by the Department of Labor, and a schedule of hours of labor which shall contain the name of each minor under 18 the maximum number of hours he shall be required or permitted to work during each day of the week, the total hours per week, the time of commencing and stopping work each day, and the time for the beginning and ending of the daily meal period. An employer may permit such minor to begin work after the time for beginning, and stop before the time for ending work stated in the schedule; but he shall not otherwise employ or permit him to work except as stated in the schedule. This schedule shall be on a form provided by the Department of Labor and shall remain the property of that department. Nothing in this section shall apply to the employment of minors in agricultural pursuits or in domestic service in private homes, or as newspaperboys as provided in this act.

34:2-21.6. Record of employment of minors under 19

Every employer shall keep a record, in a form approved by the Department of Labor, which shall state the name, date of birth and address of each person under 19 years of age employed, the number of hours worked by said person on each day of the week, the hours of beginning and ending such work, the hours of beginning and ending meal periods, the amount of wages paid, and such other information as the department shall by regulation require. Such record shall be kept on file for at least 1 year after the entry of the record and shall be open to the inspection of the Department of Labor, of attendance officers and of police officers. Nothing in this section shall apply to the employment of minors in agricultural pursuits, or in domestic service in private homes, or as newspaperboys as provided in this act.

34:2-21.7. Employment certificate or special permit from issuing officer of school district

- (a) Except as permitted under section 15 of this act, no minor under 18 years of age shall be employed, permitted, or suffered to work in, about, or in connection with any gainful occupation, unless and until the person employing such minor shall procure and keep on file an employment certificate or special permit for such minor, issued by the issuing officer of the school district in which the child resides, or of the district in which the child has obtained a promise of employment if the child is a nonresident of the State; provided, that:
- (1) No certificate or special permit shall be required for any child 16 years of age or over employed in agricultural pursuits;
 - (2) No certificate or special permit shall be required for any child 14 years of age or over employed at such times as the schools of his district are not in session, at any agricultural fair, horse, dog, or farm show the duration of which does not exceed 10 days; and
 - (3) No vacation certificate shall be required in the first 14 days of employment for any minor 15 years of age or over employed in seasonal amusement, food service, restaurant or retail occupations, at such times as the schools of his district are not in session, provided that no minor under 16 years of age shall be permitted to operate, or service, or to work in, about, or in connection with power-driven machinery.
- (b) The employment covered under this section shall not require or involve work in, about, or in connection with employments prohibited by P.L.1970, c. 115 (C. 34:2-21.15) and P.L.1973, c. 204 (C. 34:2-21.17) of the child labor laws.
- (c) Such certificate or special permit shall be issued in triplicate in such form and in accordance with such instructions as may be prescribed by the Commissioner of Education. The Commissioner of Education shall supply to the issuing officers all blank forms to be used in connection with the issuance of such certificates, and special permits as provided for in section 15 of this act.
- (d) Employment certificates shall be of two kinds, regular certificates permitting employment during school hours, and vacation certificates permitting employment during the school vacation and during the school term at such times as the public schools are not in session.
- (e) The original copy of the employment certificate shall be mailed by the issuing officer to the prospective employer of the minor for whom it is issued; a duplicate copy shall be mailed to the Department of Labor in Trenton as provided in section 12 of this act, and a triplicate copy shall be kept in the files of the issuing officer. The issuing officer may refuse to grant a certificate, if in his judgment, the best interests of the minor would be served by such refusal and he shall keep a record of such refusals, and the reasons therefor.

34:2-21.8. Issuance of certificates; prerequisites

The issuing officer shall issue such certificates only upon the application in person of the minor desiring employment, and after having approved and filed the following papers:

- (1) A promise of employment signed by the prospective employer or by someone duly authorized by him, setting forth the specific nature of the occupation in which he intends to employ such minor, the wage to be paid such minor, and the number of hours per day and days per week which said minor shall be employed.
- (2) Evidence of age showing that the minor is of the age required by this act, which evidence shall consist of one of the following proofs of age and shall be required in the order herein designated, as follows:
 - (a) A birth certificate or certified transcript thereof or a signed statement of the recorded date and place of birth issued by a registrar of vital statistics or other officer charged with the duty of recording births, or
 - (b) A baptismal certificate or attested transcript thereof showing the date and place of birth, and date and place of baptism of the minor, or
 - (c) Other documentary evidence of age satisfactory to the issuing officer, such as a bona fide contemporary record of the date and place of the minor's birth kept in the Bible in which the records of the births in the family of the minor are preserved, or a passport, showing the age of the minor, or a certificate of arrival in the United States, issued by the Office of Immigration and Naturalization Services, showing the age of the minor, or a life insurance policy, provided that such other documentary evidence has been in existence at least 1 year prior to the time it is offered as evidence, and provided further that a school record of age or an affidavit of a parent or guardian or other written statement of age shall not be accepted, except as specified in paragraph (d) of this section.
 - (d) In the case none of the aforesaid proofs of age shall be obtainable and only in such case, the issuing officer may accept the school record or the school-census record of the age of the minor together with the sworn statement of a parent or guardian as to the age of the minor and also with a certificate signed by the physician or advanced practice nurse authorized to sign the statements of physical fitness required by this section, specifying what in his opinion is the physical age of the minor. Such certificates shall show the height and weight of the minor and other facts concerning his physical development which were revealed by such examination and upon which the opinion of the physician or advanced practice nurse is based as to the physical age of the minor. If the school or school-census record of age is not obtainable, the sworn statement of the minor's parent or guardian, certifying to the name, date and place of birth of the minor, together with a physician's or advanced practice nurse's certificate of age as hereinbefore specified, may be accepted as evidence of age. The issuing officer shall administer said sworn statement.

The issuing officer shall, in issuing a certificate for a minor, require the evidence of age specified in paragraph (a) of this section in preference to that specified in paragraphs (b), (c) and (d) of this section and shall not accept the evidence of age permitted by any subsequent paragraph unless he shall receive and file evidence that the evidence of age required by the preceding paragraph or paragraphs cannot be obtained.

- (3) A statement of physical fitness, signed by a medical inspector employed by the applicable board of education, or any other physician licensed to practice medicine and surgery, or advanced practice nurse, setting forth that such minor has been thoroughly examined by such medical inspector, or such other physician licensed to practice medicine and surgery, or advanced practice nurse, that he either is physically fit for employment in occupations permitted for persons under 18 years of age, or is physically fit to be employed under certain limitations, specified in the statement. If the statement of physical fitness is limited, the employment certificate issued thereon shall state clearly the limitations upon its use, and shall be valid only when used under the limitations so stated. The method of making such examinations shall be prescribed jointly by the Commissioner of Education and the State Department of Health and Senior Services; provided, however, no minor shall be required to submit to a physical examination, whose parent or guardian objects thereto in writing on the grounds such examination is contrary to his religious beliefs and practices.
- (4) A school record signed by the principal of the school which the minor has last attended or by someone duly authorized by him, giving the full name, date of birth, grade last completed, and residence of the minor, provided, that in the case of a vacation certificate issued for work before or after school hours, such record shall also state that the child is a regular attendant at school, and in the opinion of the principal may perform such work without impairment of his progress in school, but such principal's statement shall not be required for the issuance of a vacation certificate for work during regular school vacations.

34:2-21.9. Age certificates to persons between 18 and 21; contents; retention by employer during employment

Upon request, it shall be the duty of the issuing officer to issue to any young person between the ages of eighteen and twenty-one years residing in his district and applying in person, who expresses a desire to enter employment, an age certificate upon presentation of the same proof of age as is required for the issuance of employment certificates under this act. A young person between the said ages nonresident of the State may apply to the issuing authority of any district where such person states he intends to seek employment. The age certificate shall state the color, name, sex, date and place of birth, residence, color of hair and eyes, height, and distinguishing facial marks, if any, and the kind of proof of age submitted.

All copies thereof shall be signed in person by the applicant in the presence of the said issuing officer in whose name it is issued.

Any employer before employing a minor may require him to produce an age certificate and sign his name for comparison with the signature on the certificate. If in his judgment the signature and characteristics of the child correspond with the signature and description in the certificate, the employer, on employing the child, may require and retain the certificate during the minor's employment and shall return it to the minor upon the termination of his employment.

34:2-21.10. Employment certificate; contents

An employment certificate shall state the name, sex, color, date and place of birth, residence, color of hair and eyes, height, weight, any distinguishing facial marks of the child-the employer's name, address and type of business, the occupation of the child, the kind of proof of age submitted, the grade completed, physician's approval and the name and address of parent. Every such certificate shall be signed in the presence of the issuing officer by the child in whose name it is issued.

34:2-21.11. Certificate or permit as conclusive evidence of age

An employment or age certificate or special permit issued in accordance with this act shall be conclusive evidence of the age of the minor for whom issued in any proceeding involving the employment of a minor under the child-labor or workmen's compensation law or any other labor law of the State, as to any act occurring subsequent to its issuance.

34:2-21.12. Filing of duplicate certificates or permits; cancellation; return of original papers; destruction of certificates and permits when minors become 21

Every issuing officer issuing an employment or an age certificate or special permit, shall send immediately to the Department of Labor at Trenton, a duplicate of the certificate or permit and the original papers upon which the certificate or special permit was granted. The department shall examine and promptly return to the issuing officer the said original papers and shall keep on file the duplicate of said certificate or permit. Whenever there is reason to believe that an employment or an age certificate or special permit was improperly issued, the Commissioner of Labor shall notify the Commissioner of Education and the board of education of the school district in which the certificate was issued. The board of education of the school district may cancel any employment or any age certificate or special permit issued by it, and shall cancel the same when directed so to do by the Commissioner of Education. Whenever any employment certificate has been cancelled, the board of education canceling the same shall immediately notify the Commissioner of Education, the Commissioner of Labor and the person by whom the child is employed, of its action, and such employer shall immediately upon receiving notice forward the certificate to the board of education.

All birth certificates, baptismal certificates, passports, insurance policies or other original papers submitted in proof of age shall be returned to the minor upon request after they have been returned to the issuing officer by the Department of Labor and after the issuing officer has transcribed for his files information pertinent to the issuance of the certificates. The Commissioner of Labor and the issuing officer may destroy all employment and age certificates and special permits or copies thereof when the birth dates set forth in such certificates and special permits are more than twenty-one years before the date of destruction.

34:2-21.13. Employment of children who are nonresidents of school district; duplicate of certificate

If a child within the ages for compulsory school attendance is employed in a school district other than that in which he lives, the issuing officer of the district in which the child lives shall immediately send a duplicate of the certificate, properly filled out and the address of the employer to the superintendent of schools of the county in which the child resides who shall thereupon send said duplicate to the superintendent of schools of the county in which the child is employed.

34:2-21.14. Return of certificate after employment terminates; new certificates; certificate valid only for one employer and one occupation; employer to keep certificate accessible; prima facie evidence

Every employer receiving an employment certificate shall within two days after termination of the employment return said certificate to the person issuing it. A new employment certificate shall not be issued for any minor except upon the presentation of a new promise of employment. An employment certificate shall be valid only for the employer for whom issued and for the occupation designated in the promise of employment. Said employer shall, during the period of the minor's employment, keep such certificate on file at the place of employment and accessible to any issuing officer and to any attendance officer, inspector, or other person authorized to enforce this act. The failure of any employer to produce for inspection such employment certificate, or the presence of any minor under eighteen years of age in his place of work at any time other than that specified in the posted schedule of hours required by this act, shall be prima facie evidence of the unlawful employment of the minor. The presence of any minor under eighteen years of age in any place of employment shall be prima facie evidence of the employment of such minor, except that the presence on any farm or place of agricultural pursuit of any such minor shall not constitute such prima facie evidence.

34:2-21.15. Street trade; agricultural pursuits; ages when permitted; special permits; newspaper carriers

Except as hereinafter provided as to newspaper carriers, no minor under 14 years of age may engage in any street trade, which term, for the purpose of this section shall include the selling, offering for sale, soliciting for, collecting for, displaying, or distributing any articles, goods, merchandise, commercial service, posters, circulars, newspapers or magazines or in blacking shoes on any street or other public place or from house to house. No minor under 12 years of age may be employed in agricultural pursuits.

Whenever a minor has graduated from vocational school, approved by the Commissioner of Education and is 17 years of age, the minor's diploma or certified copy thereof and an employment certificate mailed to the employer by the issuing officer shall be deemed a special permit to engage in those pursuits in which the minor majored in said vocational school during those hours permitted for persons 18 years of age and over.

Except as hereinafter provided as to newspaper carriers, whenever a minor under 16 years of age desires to work during such times as the schools of the district in which the minor resides are not in session in any street trade or in agricultural pursuits, the parent, guardian or other person having the custody and control of the minor may file with the issuing officer in the school district in which the minor resides an application for a special permit authorizing such work. Such application shall show the exact character of the work the minor is to do, and the hours and wages and special conditions under which said work is to be performed.

If upon investigation it is found that the facts set forth in the application are true and that the work will not interfere with the minor's health or standing in school, the issuing officer shall, upon presentation to the issuing officer of the same proof of age as is required for the issuance of an employment certificate, issue a special permit, allowing the minor to work at such times as the public schools in the district are not in session, but such work except in agricultural pursuits, and as newspaper carriers, to be otherwise subject to the maximum hours of labor provisions set for minors under 16 years of age in section 3 of this act; provided, that nothing in this act shall prevent newspaper carriers as defined in this act, between 11 and 14 years of age, from delivering, soliciting, selling and collecting for newspapers on routes in residential neighborhoods between the hours of 6:00 o'clock in the morning and 7:00 o'clock in the evening of any day; and newspaper carriers 14 years of age and older from delivering, soliciting, selling and collecting for newspapers on routes in residential neighborhoods between the hours of 5:30 o'clock in the morning and 8:00 o'clock in the evening of any day; and provided further that no newspaper carrier under the age of 18 years shall be permitted to engage in such occupation beyond the period of time wherein the combined hours devoted to said occupation as a newspaper carrier and the hours in school shall exceed a total of 40 hours per week and not more than 8 hours in any 1 day; and provided, further, that minors engaged in agricultural pursuits may be employed no more than 10 hours per day.

Such special permit shall show the name, address, and date of birth of the minor for whom it is issued, the kind of proof of age submitted, the nature of the occupation in which the minor is to engage, and such other information as the commissioner of Education may require.

Any such special permit for work in agriculture shall be issued for a period not to exceed 6 months and shall show its date of expiration. Any person employing a minor under 16 years of age in agriculture shall obtain such a certificate from the minor and keep it on file during the period of the minor's employment and shall return it to the minor to whom it is issued upon termination of the minor's employment.

Upon application by the parent, guardian or other person having custody and control of a newspaper carrier as defined in this act, between the ages of 11 and 18 years of age, to the publisher of any newspaper in this State and upon receiving satisfactory proof of age and a signed statement of physical fitness, such publisher may issue to such newspaper carrier a special permit on a form prescribed and approved by the Commissioner of Education, whereby the newspaper carrier shall be permitted to deliver, solicit, sell and collect for newspapers outside of the newspaper carrier's school hours on residential routes, and on Sundays and during school vacations and no other employment certificate shall be required.

Such special permit shall show the name, address and date of birth of the newspaper carrier for whom it is issued, and such other information as the Commissioner of Education may require.

The publisher shall forthwith mail 3 copies of such special permit to the issuing officer as defined in section 1 of this act, one of which copies shall be forwarded to the Commissioner of Education and one copy to the Commissioner of Labor and Industry in such manner as may be provided by regulation of said commissioners. A copy of such special permit shall also be furnished by the publisher to the parent, guardian or other person having custody and control of the newspaper carrier and the publisher shall retain at all times a file copy thereof.

The special permit shall remain in full force and effect unless and until the publisher has knowledge of or is notified by the issuing officer or the Commissioner of Labor and Industry that the newspaper carrier is not physically fit or that in the opinion of the issuing officer or the Commissioner of Labor and Industry, engaging in the occupation as a newspaper carrier will be harmful to the newspaper carrier's education. In such case, the said special permit shall be suspended unless and until the issuing officer shall revoke said notification. In the event of such notification and suspension, however, if either the parent, guardian or other person having custody and control of the newspaper carrier or the publisher shall deem such decision to be erroneous, an appeal may be made to the Commissioner of Education who shall have authority to affirm, reverse or modify such decision of the issuing officer or the Commissioner of Labor and Industry.

The publisher shall keep a record of the name, address and birth date of each newspaper carrier to whom such special permit is issued; the date said newspaper carrier commenced and ceased delivering newspapers published by said publisher together with a record of the number of newspapers sold to each newspaper carrier and a general description of the area of the route served by each newspaper carrier. Such records shall be kept on file by said publisher for a period of 2 years after the newspaper carrier has ceased delivering newspapers published by said publisher.

The special permit shall remain in full force and effect unless and until the publisher is notified by the issuing officer or the Commissioner of Labor and Industry that the newspaper carrier is not physically fit or that the newspaper carrier's school record is such that engaging in the occupation of a newspaper carrier will be harmful to the newspaper carrier's education. In such case, however, if either the parent, guardian or other person having custody and control of the newspaper carrier or the publisher shall deem such decision to be erroneous, an appeal may be made to the Commissioner of Education who shall have authority to reverse or modify such decision of the issuing officer or the Commissioner of Labor and Industry.

34:2-21.16. Fees or expenses not to be paid by child, parent or guardian

No fees or expenses incurred in obtaining any certificates under this act shall be charged to or paid by any child, parent, guardian or other person having custody or control of such a child for any service had under this act.

34:2-21.17. Prohibited employments for minors under 16 and under 18; exceptions

No minor under 16 years of age shall be employed, permitted or suffered to work in, about, or in connection with power-driven machinery.

No minor under 18 years of age shall be employed, permitted or suffered to work in, about, or in connection with the following:

The manufacture or packing of paints, colors, white lead, or red lead;

The handling of dangerous or poisonous acids or dyes; injurious quantities of toxic or noxious dust, gases, vapors or fumes;

Work involving exposure to benzol or any benzol compound which is volatile or which can penetrate the skin;

The manufacture, transportation or use of explosives or highly inflammable substances;

Oiling, wiping, or cleaning machinery in motion or assisting therein;

Operation or helping in the operation of power-driven woodworking machinery; provided, that apprentices operating under conditions of bona fide apprenticeship may operate such machines under competent instruction and supervision;

Grinding, abrasive, polishing or buffing machines; provided, that apprentices operating under conditions of bona fide apprenticeship may grind their own tools;

Punch presses or stamping machines if the clearance between the ram and the dye or the stripper exceeds 1/4 inch;

Cutting machines having a guillotine action;

Corrugating, crimping or embossing machines;

Paper lace machines;

Dough brakes or mixing machines in bakeries or cracker machinery;

Calender rolls or mixing rolls in rubber manufacturing;

Centrifugal extractors, or mangles in laundries or dry cleaning establishments;

Ore reduction works, smelters, hot rolling mills, furnaces, foundries, forging shops, or any other place in which the heating, melting, or heat treatment of metals is carried on

Mines or quarries;

Steam boilers carrying a pressure in excess of 15 pounds;

Construction work of any kind, except in the construction of affordable housing as a volunteer for a nonprofit organization as provided in section 1 of P.L.1994, c. 82 (C. 34:2-21.17d);

Fabrication or assembly of ships;

Operation or repair of elevators or other hoisting apparatus;

The transportation of payrolls other than within the premises of the employer.

No minor under 18 years of age shall be employed, permitted, or suffered to work in, about, or in connection with any establishment where alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, or are sold for consumption on the premises, or in a pool or billiard room; provided, however, this paragraph shall not apply to minors 16 years of age or over, employed as pinsetters, lane attendants, or busboys in public bowling alleys as provided in section 3 of P.L.1940, c. 153 (C. 34:2-21.3) or to minors employed in theatrical productions where alcoholic beverages are sold on the premises.

Minors 14 years of age or over may be employed as golf course caddies and pool attendants.

No minor under 18 years of age shall be employed, permitted, or suffered to work in any place of employment, or at any occupation hazardous or injurious to the life, health, safety, or welfare of such minor, as such occupation shall, from time to time, be determined and declared by the Commissioner of Labor to be hazardous or injurious to the life, health, safety, or welfare of such minor, after a public hearing thereon and after such notice as the commissioner may by regulation prescribe.

None of the provisions of this section regarding employment in connection with alcoholic liquors shall be construed to prevent the employment of minors 16 years of age or more in a restaurant as defined in section 1 of P.L.1940, c. 153 (C. 34:2-21.1) and as provided for in section 3 of P.L.1940, c. 153 (C. 34:2-21.3), in a public bowling alley as provided in this section, or in the executive offices, maintenance departments, or pool or beach areas of a hotel, motel or guesthouse; provided, however, that no minor shall engage in the preparation, sale or serving of alcoholic beverages, nor in the preparation of photographs, nor in any dancing or theatrical exhibition or performance which is not part of a theatrical production where alcoholic beverages are sold on the premises, while so employed; and provided, further, that any minor so employed shall be closely supervised while engaged in the clearing of alcoholic beverages.

Nothing in this section shall be deemed to apply to the work done by pupils in public or private schools of New Jersey, under the supervision and instruction of officers or teachers of such organizations or schools, or to a minor who is 17 years of age employed in the type of work in which such minor majored under the conditions of the special vocational school graduate permit provided in section 15 of P.L.1940, c. 153 (C. 34:2-21.15).

Nothing in this section shall be construed to prevent minors 16 years of age or older who are members of a Junior Firemen's Auxiliary, created pursuant to N.J.S. 40A:14-95, from engaging in any activities authorized by N.J.S. 40A:14-98.

Notwithstanding any provision of this section to the contrary, a minor who is 15 years of age or older may work as a cashier or bagger on or near a supermarket or retail establishment cash register conveyor belt.

34:2-21.17a. Inapplicability of § 34:2-21.17 to participants in junior achievement program

Section 17 to P.L. 1940, c. 153 (C. 34:2-21.17) shall not apply to minors under the age of 18 years who participate or work in any junior achievement program. As used in this act "junior achievement program" means any program under which minors under the age of 18 engage in business enterprises or activities pursuant to an economics education program conducted under the guidance of adult sponsors from private business and industry.

34:2-21.17b. Minors as volunteers at community operated noncommercial recycling centers; provisions

Concurrent with all other provisions of P.L.1940, c. 153 (C. 34:2-21.1 et seq.), minors who are 12 through 17 years of age shall be permitted to work as volunteers at community operated noncommercial recycling centers operated by a municipality or a community service organization authorized by a municipality to operate a recycling center subject to the following provisions:

- a. That these recycling centers handle only those waste products normally included in the municipal waste stream such as newspapers and glass and metal beverage containers;
- b. That under no circumstances shall a minor be permitted to work in a community recycling center that is in any way associated with a profit making commercial enterprise other than to sell the recyclable products referred to in subsection a.;
- c. That no minor shall operate, perform maintenance, clean, inspect or work in, about, or in connection with any power driven machinery involved in the recycling process;
- d. That no minor shall work in a community recycling center without the safety equipment required by law;
- e. That no minor shall be permitted to work as a volunteer at a recycling center except under the direct supervision of an adult;
- f. That no minor shall handle or be exposed to hazardous waste products or other hazardous substances; and
- g. That the municipality which operates the center or authorizes the operation of the center by a community service organization has secured adequate liability insurance to provide compensation for all injuries sustained by minors working voluntarily at the center.

For the purposes of this section, "community operated noncommercial recycling center" means any recycling center that is sponsored by a municipality and is engaged in the recycling activity as a community service.

34:2-21.17c. Non-employee status of minor working voluntarily

A minor working voluntarily at a recycling center shall not be deemed an employee under R.S. 34:15-36. A municipality or community service organization which uses the services of a minor under this act shall not be subject to R.S. 34:15-10, provided that the municipality or organization has fully complied with P.L.1940, c. 153 (C. 34:2-21.1 et seq.) and the provisions of this act.

34:2-21.17d. Minors aged 14 to 17 permitted to work as volunteers for nonprofit organizations constructing affordable housing; prohibited acts; minimum insurance requirements

Concurrent with all other provisions of P.L.1940, c. 153 (C. 34:2-21.1 et seq.), minors who are 14 through 17 years of age shall be permitted to work as volunteers for nonprofit organizations engaged in the construction of affordable housing as determined by the Commissioner of Labor subject to the following provisions:

- a. That under no circumstances shall a minor be permitted to work in a project involving the construction of affordable housing that is in any way associated with a profit making commercial enterprise;
- b. That no minor shall operate, perform maintenance, clean, inspect or work in, about, or in connection with any power driven machinery involved in the construction of affordable housing;

- c. That no minor shall engage in the construction of affordable housing without the safety equipment required by law;
- d. That no minor shall be permitted to work as a volunteer in the construction of affordable housing except under the direct supervision of an adult;
- e. That no minor shall be exposed to hazardous waste products or other hazardous substances;
- f. That no minor shall be permitted to work on any excavation, scaffolding or roofing;
- g. That no minor shall be permitted to work:
 - (1) during school hours;
 - (2) before 7 a.m.;
 - (3) after 7 p.m.; except that minors may work until 9 p.m. between Memorial Day and Labor Day;
 - (4) for more than five consecutive hours without a half-hour break; and
 - (5) for more than 18 hours per week when school is in session; and
- h. That the nonprofit organization engaged in the construction of affordable housing has secured liability insurance to provide compensation for all injuries, including, but not limited to, occupational illness, sustained by minors working voluntarily in the construction of affordable housing. The insurance required by this section shall have coverage limits of at least \$2,500,000 per occurrence, at least \$2,500,000 aggregate per year and \$250,000 for property damage, or such higher amounts as the Commissioner of Insurance may promulgate from time to time to adjust for inflation.

34:2-21.17e. Minor working pursuant to § 34:2-21.17d deemed not to be an employee

A minor working voluntarily in the construction of affordable housing pursuant to section 1 of this act shall not be deemed an employee under R.S. 34:15-36. A nonprofit organization which uses the services of a minor under this act shall not be subject to R.S. 34:15-10, provided that the nonprofit organization has fully complied with P.L.1940, c. 153 (C. 34:2-21.1 et seq.) and the provisions of this act.

34:2-21.17f. Applicability

Section 17 of P.L.1940, c. 153 (C.34:2-21.17) shall not apply to minors under the age of 18 who have successfully reached the ninth or higher grade level and who have the approval of a parent or guardian to participate or work in any educational program in science. A school student shall not participate or work in the program more than 20 hours per week during the school year.

As used in this act “educational program in science” means a program in which any minor under the age of 18 who has successfully reached the ninth or higher grade level participates in a scientific project or activity located in a research facility pursuant to an educational program under the supervision of the minor's school and adult sponsors from private business and industry, provided that no supervision by a school shall be required if the minor is a high school graduate.

34:2-21.17g. Rules and regulations

The Commissioner of Labor, in consultation with the Commissioner of Education, shall, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to implement the provisions of this act.

34:2-21.18. Enforcement of act; inspection of places and certificates

It shall be the duty of the Department of Labor and its inspectors and agents, acting under the Commissioner of Labor, to enforce the provisions of this act, to make complaints against persons violating its provisions, and to prosecute violations of the same. The Commissioner of Labor and any inspector or other authorized person acting under him, attendance officers and other persons employed by law to compel the attendance of children at school, and officers and agents of any duly incorporated society for the protection of children from cruelty and neglect, shall have authority to enter and inspect at any time any place or establishment covered by this act, and to have access to employment or age certificates or special permits kept on file by the employers and such other records as may aid in the enforcement of this act.

34:2-21.19. Penalty, Child Labor Law Enforcement Trust Fund, Advisory Board; annual report

- a. Whoever employs or permits or suffers any minor to be employed or to work in violation of this act, or of any order or ruling issued under the provisions of this act, or obstructs the Department of Labor and Workforce Development, its

officers or agents, or any other person authorized to inspect places of employment under this act, and whoever, having under his control or custody any minor, permits or suffers him to be employed or to work in violation of this act, shall be guilty of an offense. If a defendant acts knowingly, an offense under this section shall be a crime of the fourth degree. Otherwise it shall be a disorderly persons offense and the defendant shall, upon conviction for a violation, be punished by a fine of not less than \$100 nor more than \$2,000 for an initial violation and not less than \$200 nor more than \$4,000 for each subsequent violation. Each day during which any violation of this act continues shall constitute a separate and distinct offense, and the employment of any minor in violation of the act shall with respect to each minor so employed, constitute a separate and distinct offense.

- b. As an alternative to or in addition to any other sanctions provided by law for violations of P.L.1940, c.153 (C.34:2-21.1 et seq.), when the Commissioner of Labor and Workforce Development finds that an individual has violated that act, the commissioner is authorized to assess and collect administrative penalties of not more than \$500 for a first violation, not more than \$1,000 for a second violation, and not more than \$2,500 for each subsequent violation, specified in a schedule of penalties to be promulgated as a rule or regulation by the commissioner in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). When determining the amount of the penalty imposed because of a violation, the commissioner shall consider factors which include the history of previous violations by the employer, the seriousness of the violation, the good faith of the employer, and the size of the employer's business. No administrative penalty shall be levied pursuant to this section unless the Commissioner of Labor and Workforce Development provides the alleged violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing before the commissioner or his designee within 15 days following the receipt of the notice. If a hearing is requested, the commissioner shall issue a final order upon such hearing and a finding that a violation has occurred. If no hearing is requested, the notice shall become a final order upon expiration of the 15-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. Any penalty imposed pursuant to this section may be recovered with costs in a summary proceeding commenced by the commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c. 274 (C.2A:58-10 et seq.). Any sum collected as a fine or penalty pursuant to this section shall be deposited in the Child Labor Law Enforcement Trust Fund established pursuant to subsection c. of this section.
- c. There is established in the Department of Labor and Workforce Development the Child Labor Law Enforcement Trust Fund. All moneys in the fund shall be applied by the department toward the enforcement of the provisions of P.L.1940, c.153 (C.34:2-21.1 et seq.) and to disseminate information and publicity regarding those provisions to employers, employer organizations, employees, unions, and teachers, counselors, social workers and other professionals engaged in work involving the welfare of children.
- d. There is established a Child Labor Law Enforcement Advisory Board to advise the Commissioner of Labor and Workforce Development, and issue an annual report, regarding the use of moneys from the Child Labor Law Enforcement Trust Fund and other issues the board deems appropriate concerning child labor, including the impact of excessive or hazardous work on the educational success, health and general well-being of children. The board shall consist of the commissioner or his designee, who shall serve as the chair, and seven members appointed by the commissioner as follows: two members representing organizations of employers in industries with significant numbers of employees who are minors, two members representing labor unions in industries with significant numbers of employees who are minors, one member representing an organization of school administrators, one member representing an organization of school employees, and one member who is an individual with expertise on the impact of excessive or hazardous work on the educational success, health, and general well-being of children. Members appointed by the commissioner shall be appointed for two-year terms and may be appointed for any number of terms. Members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties. Action may be taken by the board by an affirmative vote of a majority of its members. The first annual report shall be issued not later than 12 months after the effective date of this act. Each annual report may include recommendations to enhance the enforcement and publicizing of the provisions of P.L.1940, c.153 (C.34:2-21.1 et seq.). The advisory board shall have access to reports, data and other information regarding child labor in the possession of the department and assistance from department personnel as required to perform its duties.

34:2-21.20. Partial invalidity

If any provisions of this act or the application thereof to any person or circumstance is held invalid, the remainder of the act and the application of such provisions to other persons or circumstances shall not be affected thereby.

34:2-21.21. Repeals

The provisions of article two, chapter two, of Title 34, Revised Statutes [§§ 34:2-2 to 34:2-21], and of sections 18:14-15 to 18:14-33, inclusive, of the Revised Statutes, are hereby repealed.

34:2-21.22. Effective date

This act shall take effect September first, one thousand nine hundred and forty.

34:2-21.22a. Newspaperboys; effect of act upon rights under Workmen's Compensation Act

Nothing in this act shall be construed to affect adversely any right or rights of newspaperboys under the provisions of chapter 15 of Title 34 of the Revised Statutes of New Jersey.

34:2-21.57. Definitions

As used in this act:

- a. "Professional employment" means employment for pay as an actor or performer in a theatrical production.
- b. "Theatrical production" means and includes stage, motion picture and television performances and rehearsals therefor.
- c. "Prohibited performance" means and includes appearances as a rope or wire walker or rider, gymnast, wrestler, boxer, contortionist, acrobat, rider of a horse or other animal unless the minor is trained to safely ride such horse or animal or rider of any vehicle other than that generally used by a minor of the same age, or appearance in any illegal, indecent or immoral exhibition, practice, or theatrical production or in any practice, exhibition or theatrical production dangerous to the life, limb, health or morals of a minor, or appearance or exhibition of any physically deformed or mentally deficient minor.

34:2-21.58. Theatrical productions; employment of minors under 16

Notwithstanding any provision of the child labor laws of this State, the professional employment of minors under the age of 16 years in theatrical productions is authorized upon compliance with the conditions in this act set forth.

34:2-21.59. Permit; grounds for issuance

- a. Upon application of an employer, bearing the endorsed approval of a parent or guardian of the minor a permit authorizing employment of the minor in a theatrical production may be issued if:
 - (a) The minor is in good health and will not likely be endangered by the working conditions of the prospective employment as certified by a currently issued statement of a licensed physician based upon a physical examination which, for minors under 8 years of age, includes a visual acuity screening if practicable;
 - (b) The place of employment is approved by the Department of Labor and the period for which the permit is desired is not in excess of 3 months;
 - (c) The minor is not attending public school and the application is for a period other than during the school summer vacation period, that he is receiving equivalent instruction approved by the Department of Education or by the state or county of his residence if he be a nonresident of New Jersey;
 - (d) The proposed employment will not exceed two shows or productions in a day or a total of eight shows or productions in any week where the professional employment is reasonably separable into discrete shows or productions; that the employment will not be for more than 6 days in any week, 5 hours in any day or a total of 24 hours, including rehearsal time, in any week and that the minor will not be employed before 7:00 a.m. or after 11:30 p.m. and that school and theatrical performance time shall not exceed 8 hours in any 1 day and that the combined time spent on a set or on call and performance time shall not exceed a total of eight hours in any one day;
 - (e) The employment does not involve a type of prohibited performance as hereinafter defined; and
 - (f) The minor will be under the direct care and supervision of an adult who is a parent, guardian or a representative of the employer, named in the application, at all times during his employment or while living away from home when required as an incident of such employment.
- b. A permit or certificate, as the case may be, may be issued by the issuing officer or by the Commissioner of Labor in cases involving a significant contribution to the development of the motion picture industry in the State as determined

by the Motion Picture and Television Development Commission. In such cases, the commissioner shall also have the authority to alter or amend the hours of the day but not the total hours in the day during which a minor may work as set forth in paragraph (d), subsection a. of this section, if such alteration or amendment will not foreseeably impair the educational instruction, supervision, health and welfare of the minor, and such an alteration or amendment is necessary for good reasons shown by the employer. The commissioner shall set forth the terms of any alteration or amendment in the permit or certificate.

34:2-21.60. Refusal to grant permit or certificate; grounds; record

The issuing officer or the Commissioner of Labor, pursuant to section 3b. of P.L.1962, c. 91 (C. 34:2-21.59), may refuse to grant a permit or certificate if, in his judgment, the best interests of the minor would be served by such refusal and he shall keep a record of such refusals, and the reasons therefor. A refusal by the issuing officer shall not preclude a contrary decision by the commissioner.

34:2-21.61. Renewal of permits; inspection

Permits may be renewed upon application. A separate permit shall be required for each employee. The employer shall have the permit available for inspection at all times at the place of employment.

34:2-21.62. Delivery of application to department of labor

The Department of Education shall deliver a copy of each application to the Department of Labor.

34:2-21.63. Repealed by L.1981, c. 147, § 7, eff. May 14, 1981

34:2-21.63a. Employment of minor under 16 to perform indecent or immoral exhibition; high misdemeanor

Any person who obtains a permit under this act and employs a minor under the age of 16 to perform an indecent or immoral exhibition, which exhibition is a prohibited performance under this act, shall be guilty of a high misdemeanor. For the purpose of this act, indecent or immoral exhibition means (1) sexual intercourse, or (2) anal intercourse, or (3) masturbation, or (4) bestiality, or (5) sadism, or (6) masochism, or (7) fellatio, or (8) cunnilingus, or (9) any other sexual activity, or (10) nudity, if such nudity is to be depicted for the purpose of sexual stimulation or gratification of any person who may view such depiction.

34:2-21.63b. Violations; penalty

Whoever obtains any permit under this act (P.L.1962, c. 91; C. 34:2-21.57 et seq.) upon any false statement made in applying therefor, or employs or permits or suffers any minor to be employed or to work in violation of this act or of the terms of any permit issued under this act or of any order or ruling issued under the provisions of this act, or obstructs the Departments of Labor and Education, their officers or agents, or any other person authorized to inspect places of employment under this act, and whoever, having under his control or custody any minor, permits or suffers him to be employed or to work in violation of this act is guilty of an offense. Where a defendant acts knowingly, an offense under this section shall be a crime of the fourth degree. Otherwise, it shall be a disorderly persons offense. Each day during which any violation of this act continues shall constitute a separate and distinct offense, and the employment of any minor in violation of the act shall with respect to each minor so employed, constitute a separate and distinct offense.

34:2-21.64. Forms and regulations; safeguards governing working conditions, supervision and education

The Department of Education and the Department of Labor shall prescribe forms and regulations concerning applications for and issuance of permits and certificates and the Department of Labor may issue regulations concerning the administration and enforcement of this act and, notwithstanding any provisions of law to the contrary, after consultation with the Department of Education, shall prescribe special safeguards governing the working conditions, supervision and education of minors under the age of 16, with particular attention to minors under the age of 6 years not inconsistent with the purposes of this act.

CHAPTER 58 CHILD LABOR REGULATIONS

SUBCHAPTER 1. GENERAL PROVISIONS

12:58-1.1 Purpose; scope

- (a) The purpose of this chapter is to define and clarify certain sections of the child labor statutes.
- (b) This chapter shall apply to the employment of minors subject to the child labor statutes, except as provided in N.J.A.C. 12:58-1.4.

12:58-1.2 Apprentice and student learner in cooperative vocational education program

- (a) This chapter shall not apply to apprentices and student learners that are in a cooperative vocational education program.

- (b) "Apprentice" means a person:

1. Employed in a craft recognized as an apprenticeable trade;
2. Whose work in particularly hazardous occupations is incidental to the training;
3. Whose work is intermittent and of short duration and under the direct and close supervision of a craftsperson; and
4. Registered by the Bureau of Apprenticeship and Training of the U.S. Department of Labor as employed in accordance with the standards established by that Bureau or is registered by a State agency as employed in accordance with the State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, or is employed under a written apprenticeship agreement and conditions which are found by the Secretary of Labor to conform substantially with such Federal and State standards.

- (c) "Cooperative vocational education program" means a program of vocational education approved by the State Department of Education for persons who, through written cooperative arrangements between the school and the employer, receives instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field, but these two experiences are planned and supervised by the school and employer so that each contributes to the education and employability of the student.

- (d) "Student learner" means a person:

1. Enrolled in a course of study and training in a cooperative vocational training program under a recognized State or local educational authority or in a course of study in a substantially similar program conducted by a private school;
2. Between the ages of 16 years and 18 years of age;
3. Employed under a written agreement which provides that:
 - i. Work in a particularly hazardous occupation is incidental to the minor's training;
 - ii. Work is intermittent and of short duration, and under the direct and close supervision of a qualified and experienced person; and
 - iii. Safety instruction is given by the school and correlated by the employer with on-the-job training.
4. For whom an individualized training plan of organized and progressive training to be "performed on-the-job" and related school instruction has been developed. Each training plan will contain:
 - i. Tasks to be performed by the student learner on the job;
 - ii. A progression of in-school learning experiences that relate to the on-the-job training; and
 - iii. An outline that identifies safety instruction and occupational competencies to be learned at the training site and in school;
5. For whom training site supervision must be conducted by the school coordinator at intervals not to exceed once every two weeks, to ensure that the student learner is free from exploitation and that a safe training environment is maintained;

6. Who may perform certain permitted hazardous occupations only at those sites registered with the Department of Education/Vocational Division prior to the placement of student learners and on whose employment certificate will be placed the registration number of the site to identify the student as a cooperative education student learner; and
7. For whom training site experiences may not exceed five hours on any day that school is in session nor may the combination of school and work exceed eight hours on any day that school is in session.

12:58-1.3 School to Work program

Requirements for the School to Work program are found at N.J.A.C. 12:56-18.

SUBCHAPTER 2. DEFINITIONS

12:58-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Child labor statutes” means N.J.S.A. 34:2-21.1 et seq. and N.J.S.A. 34:2-21.57 et seq.

“Combustible liquid” means any liquid with a flash point from 100 to 200 degrees Fahrenheit as measured by tests or any liquid mixture with 99 percent or more combustible components.

“Commissioner” means the Commissioner of the Department of Labor and Workforce Development or his or her designee.

“Corrosive material” means any liquid or solid that causes destruction of human skin tissue or a liquid that has a severe corrosion rate on steel or aluminum.

“Explosive” means any chemical compound, mixture, or device the primary or common purpose of which is to function by explosion, e.g., with substantially instantaneous release of gas or heat unless such compound, mixture or device is otherwise specifically classified.

“Flammable liquid” means any liquid with a flash point less than 100 degrees Fahrenheit as measured by tests with the following exceptions:

1. A flammable liquid with a vapor pressure greater than 40 pounds per square inch absolute at 100 degrees Fahrenheit.
2. A liquid mixture containing one percent or less flammable components.
3. A water-alcohol solution containing 24 percent or less alcohol.

“N.J.A.C.” means the New Jersey Administrative Code.

“N.J.S.A.” means the New Jersey Statutes Annotated.

“Pyroforic liquid” means any liquid that ignites spontaneously in dry or moist air at or below 130 degrees Fahrenheit. These liquids are classified as flammable liquids.

SUBCHAPTER 3. OCCUPATIONS PROHIBITED TO MINORS UNDER 16 YEARS OF AGE

12:58-3.1 Scope

- (a) This subchapter shall apply to occupations prohibited to minors under 16 years of age, except as provided in (b) below.
- (b) This subchapter shall not apply to apprentices and student learners engaged in cooperative vocational education programs.

12:58-3.2 Power driven machinery

- (a) Minors under 16 years of age shall not be employed, permitted or suffered to work in, about, or in connection with power-driven machinery.
- (b) "Power driven machinery" shall include:
 - 1. Power tools, including but not limited to, power lawn mowers, power woodworking and metal working tools.
- (c) "Power driven machinery" shall not include:
 - 1. Standard office type machines;
 - 2. Standard domestic type machines or appliances when used in domestic or business establishments;
 - 3. Agricultural machines when used on farms, such as standard type poultry feeders, egg washers, egg coolers, and milking machines; and
 - 4. An attended or unattended standard type passenger elevator.

12:58-3.3 Conveyors and related equipment

- (a) Minors under 16 years of age shall not be employed, permitted or suffered to work on or about conveyors and related equipment.
- (b) "Conveyor" shall mean a horizontal, inclined, or vertical device for moving or transporting bulk materials, packages or objects, in the path predetermined by the design of the device, and having points of loading and discharge.
- (c) "Related equipment" shall mean devices in and around conveyors that represent a physical hazard, such as equipment interfaces, nip and shear points, transfer, loading and discharge points, hoppers, and chutes.

SUBCHAPTER 4. OCCUPATIONS PROHIBITED TO MINORS UNDER 18 YEARS OF AGE

12:58-4.1 Scope

- (a) This subchapter shall apply to occupations prohibited to minors under 18 years of age, except as provided in (b) below.
- (b) This subchapter shall not apply to apprentices and student learners engaged in cooperative vocational educational programs.

12:58-4.2 Construction work

- (a) Minors under 18 years of age shall not be employed in construction work, except as provided in (b) below.
 - 1. "Construction work" shall mean the erection, alteration, repair, renovation, demolition or removal of any building or structure; the excavation, filling and grading of sites; the excavation, renovation, repair or paving of roads and highways; and any function performed within 30 feet of the above operations.
 - 2. "Construction work" shall not mean the repair or painting of fences, buildings and structures not exceeding 12 feet in height.
 - 3. "Building" means a combination of materials to form a construction that is safe and stable, and adapted to permanent or continuous occupancy for various uses.
 - 4. "Structure" shall mean an assembly of materials forming an object for occupancy or use including among others stadiums, staging, observation towers, storage tanks, trestles, wharves, boats and ships.
- (b) Minors who are age 14 to 17 years of age shall be permitted to work as volunteers for nonprofit organizations engaged in the construction of affordable housing in accordance with N.J.S.A. 34:2-21.17D and 34:2-21.17E. A nonprofit organization as used in this subsection means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under 26 U.S.C. §501(c)(3).

12:58-4.3 Agricultural machinery

(a) Minors under 18 years of age shall not work in, on, or directly in connection with the following agricultural machinery:

1. Cornpickers;
2. Power driven hay balers; or
3. Power field choppers.

12:58-4.4 Junk or scrap metal yard

(a) Minors under 18 years of age shall not be employed in, about, or in connection with a junk or scrap metal yard.

(b) "Junk or scrap metal yard" shall mean any place where old iron, metal, paper, cordage and other refuse may be collected and deposited or both and sold or may be treated so as to be again used in some form or discarded or where automobiles or machines are demolished for the purpose of salvaging of metal or parts.

12:58-4.5 Disorderly house

(a) Minors under 18 years of age shall not be employed in, about or in connection with a disorderly house.

(b) "Disorderly house" means a house of prostitution, a brothel or gambling place.

12:58-4.6 Highly inflammable substances

(a) Minors under 18 years of age shall not be employed, permitted or suffered to work in, about, or in connection with highly inflammable substances.

(b) Any employment certificate authorizing the employment of a minor under 18 years of age in any gasoline service station or garage shall be stamped with the following warning: "The certificate does not in any way affect any prohibition contained in the Child Labor Act concerning power-driven or hazardous machinery or hazardous occupations."

(c) "Highly inflammable substance" shall mean a flammable liquid or a pyroforic liquid, except a "highly inflammable substance" shall not mean gasoline at a service station where gasoline tanks of gasoline motor driven vehicles are filled by use of a hose that is a part of powered pumping equipment.

(d) Minors under 18 years of age shall be prohibited from fueling aircraft, either commercial or private.

12:58-4.7 Radioactive substances and ionizing radiation

(a) Minors under 18 years of age shall not be employed, permitted or suffered to work in any workroom where exposed to radioactive substances or to ionizing radiation.

(b) Work where exposed to radioactive substances shall mean work which involves exposure to:

1. Radium is stored or used in the manufacture of self-luminous compounds.
2. Self-luminous compounds are made, processed, or packaged.
3. Self-luminous compounds are stored, used or worked upon.
4. Incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged.
5. Other radioactive substances which are present in the air in average concentrations exceeding 10 percent of the maximum permissible concentrations in the air recommended for occupational exposure by the National Committee on Radiation Protection as set forth in the 40 hour week column of table one of the National Bureau of Standards Handbook No. 69 entitled "Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure", issued June 5, 1959.

- (c) Work where exposed to ionizing radiation shall mean work which involves exposure to ionizing radiations in excess of 0.5 rem per year.
- (d) "Self-luminous compound" shall mean any mixture of phosphorescent material and radium, mesothorium, or other radioactive element.
- (e) "Workroom" shall include the entire area bounded by walls of solid material and extending from floor to ceiling.
- (f) "Ionizing radiation" shall mean alpha and beta particles, electrons, protons, neutrons, gamma and x-ray and all other radiations which produce ionizations directly or indirectly, but does not include electromagnetic radiations other than gamma and x-ray.

12:58-4.8 Carcinogenic substances

- (a) Minors under 18 years of age shall not be employed, permitted or suffered to work where they may be exposed to carcinogenic substances.
- (b) "Carcinogenic substance" shall mean and include any material classified as carcinogenic by 29 CFR Part 1910 Subpart Z and as listed below:

Asbestos
Coal tar pitch volatiles
4-Nitrobiphenyl
alpha-Naphthylamine
Methyl chloromethyl ether
3,3'-Dichlorobenzidine
(and its salts)
bis-Chloromethyl ether
beta-Naphthylamine
Benzidine
4-Aminodiphenyl
Ethyleneimine
beta-Propiolactone
2-Acetylaminofluorene
4-Dimethylaminoazobenzene
N-Nitrosodimethylamine
Vinyl chloride
Inorganic arsenic
Benzene
Coke oven emissions
1,2-dibromo 3-chloropropane
Acrylonitrile

12:58-4.9 Toxic and hazardous substances

- (a) Minors under 18 years of age shall not be employed, permitted or suffered to work in workrooms where they may be exposed to toxic and hazardous substances.
- (b) "Toxic and hazardous substance" shall mean any material exceeding a threshold limit value listed in the tables of Section 1910.1000 of Subpart Z of 29 CFR Part 1910.
- (c) Minors shall not be employed, permitted or suffered to work in occupations which involve the handling of infectious or contagious disease or the removal or disposal of waste generated in the treatment of such diseases.

12:58-4.10 Compactors

- (a) "Compactor" shall mean a power operated device designed to join or pack closely together, consolidate or condense material. The term "compactor" shall not include residential type compactors and compacting type garbage trucks provided that 16 and 17 year old minors ride inside the cab of the truck. Minors 16 years of age or older may load, but not operate or unload certain compactors, scrap paper balers and paper box compactors in conformance with Federal criteria established under P.L. 104-174 amending Section 13(c) of the Fair Labor Standards Act, 29 U.S.C. §§201 et seq., in its entirety.

12:58-4.11 Circular saws, band saws, and guillotine shears

- (a) Minors under 18 years of age shall not be employed, permitted or suffered to work as an operator or helper with circular saws, band saws and guillotine shears.
- (b) Minors under 18 years of age shall not set-up, adjust, repair, oil, or clean circular saws, band saws and guillotine shears.
- (c) "Operator" shall mean a person who operates a machine by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.
- (d) "Helper" shall mean a person who assists in the operation of a machine by helping place materials into or remove them from the machine.
- (e) "Circular saw" shall mean a machine equipped with a thin steel disc having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.
- (f) "Band saw" shall mean a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.
- (g) "Guillotine shear" shall mean a machine equipped with a movable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.

12:58-4.12 Slaughtering and meat packing establishments; rendering plants; wholesale, retail or service establishments

- (a) Minors under age 18 shall not be employed, permitted or suffered to work in or about slaughtering and meat packing establishments, rendering plants, or wholesale, retail or service establishments in the following occupations:
 - 1. All occupations on the killing floor, in curing cellars, and hide cellars, except the work of messengers, runners, hand-truckers, and similar occupations which require entering such workrooms or workplaces infrequently and for short periods of time;
 - 2. All occupations involved in the recovery of lard and oils, except packaging and shipping of such products and the operation of lard-roll machines;
 - 3. All occupations involved in tankage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products;
 - 4. All occupations involved in the operation or feeding of the following power-driven meat-processing machines, including setting up, adjusting, repairing, oiling, or cleaning such machines: meat patty forming machines, meat and bone cutting saws, knives including circular and horizontal knives used for slicing meat, slicing machines used in delicatessens and restaurants for cutting or slicing any food product (except bacon-slicing machines), head-splitters, and guillotine cutters, snout-pullers and jaw-pullers, skinning machines, horizontal rotary washing machines, casing-cleaning machines such as crushing, stripping, and finishing machines, grinding, mixing, chopping, and hashing machines, and presses (except belly-rolling machines);
 - 5. All boning operations;
 - 6. All occupations involved in the pushing or dropping of any suspended carcass, half carcass, or quarter carcass; and
 - 7. All occupations involved in the hand-lifting or hand-carrying of any carcass or half carcass of beef, pork, or horse, or any quarter carcass of beef or horse.
- (b) "Slaughtering and meat packing establishment" shall mean a place in or about which cattle, calves, hogs, sheep, lambs, goats, or horses are killed, butchered, or processed. The term shall also include establishments which manufacture or process meat products or sausage casings from such animals.

- (c) "Rendering plant" shall mean an establishment engaged in the conversion of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.
- (d) "Killing floor" shall include that workroom or workplace where cattle, calves, hogs, sheeps, lambs, goats, or horses are immobilized, shackled, or killed, and the carcasses are dressed prior to chilling.
- (e) "Curing cellar" shall include that workroom or workplace which is primarily devoted to the preservation and flavoring of meat by curing materials. It does not include that workplace where meats are smoked.
- (f) "Hide cellar" shall include that workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.
- (g) "Boning operation" shall mean the removal of bones from meat cuts. It shall not include work that involves cutting, scraping, or trimming meat from cuts containing bones.

12:58-4.13 Corrosive materials

- (a) Minors under 18 years of age shall not be employed, permitted or suffered to work in or about corrosive materials.
- (b) "Corrosive material" shall mean any substance classified as a corrosive material as defined in N.J.A.C. 12:58-2. Corrosive materials shall mean, among others, acids and alkalines.

12:58-4.14 Indecent or immoral exposure

- (a) Minors under 18 years of age shall not:
 - 1. Be employed, permitted or suffered to work in indecent or immoral theatrical exhibitions;
 - 2. Work in establishments where the acts of indecent or immoral theatrical exhibitions are performed or shown on screens;
 - 3. Perform in any movie having as part of that movie any indecent or immoral exposure;
 - 4. Perform in the nude or as a go-go dancer;
 - 5. Pose in the nude or without generally accepted attire;
 - 6. Work in adult book stores or massage parlors; or
 - 7. Work in video stores where x-rated movies are rented or sold.
- (b) "Indecent or immoral theatrical exhibition" means that defined in N.J.S.A. 34:2-21.63a.

12:58-4.15 Pesticides

- (a) Minors under 18 years of age shall not be employed as applicators of pesticides, nor shall such minors be permitted in any area when such pesticides are being applied.
- (b) Compliance shall be as provided in N.J.S.A. 13:1F-1 et seq., Pesticide Control Act of 1971 and the regulations written thereunder.
- (c) "Pesticide" means and includes any substance or mixture of substances labeled, designed, intended for or capable of use in preventing, destroying, repelling, sterilizing or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds and other forms of plant or animal life or viruses on or in living man or other animals. The term "pesticide" also includes any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant or plant regulator.

12:58-4.16 Rim wheels

Minors under 18 years of age shall not be permitted to service single piece or multi-piece rim wheels.

12:58-4.17 Bar service areas

- (a) Minors under the age of 18 years of age shall not be employed, permitted or suffered to work serving beverages out of any bar service area.

1. "Bar service area" includes, but is not limited to, outside bars at pools or other recreational facilities.

SUBCHAPTER 5. VIOLATIONS AND ADMINISTRATIVE PENALTIES

12:58-5.1 Purpose; scope

- (a) The purpose of this subchapter is to establish rules to effectuate N.J.S.A. 34:2-21.1 et seq., the New Jersey Child Labor Act (Act), specifically, amended N.J.S.A. 34:2-21.19 which provides sanctions for noncompliance.
- (b) The chapter is applicable to the employment of minors subject to the Child Labor Act, N.J.S.A. 34:2-21.1 et seq.

12:58-5.2 Violations of the Act

- (a) Violations of the Act shall occur when:

1. An employer obstructs the Commissioner in the performance of the duties of the Commissioner in the enforcement of this chapter; or
2. An employer permits or suffers any minor to be employed or to work in violation of the Act; or
3. Any person who, having under his or her control or custody any minor, permits or suffers him or her to be employed or to work in violation of the Act.

- (b) If a defendant acts knowingly, an offense under this section shall be a crime of the fourth degree.

- (c) A defendant who violates any provision of this chapter shall be guilty of a disorderly persons offense and, shall, upon conviction therefor, be fined not less than \$100.00 nor more than \$1,000.

1. Each day during which any violation of the act continues shall constitute a separate and distinct offense.
2. The employment of any minor in violation of the Act shall, with respect to each minor so employed, constitute a separate offense.

12:58-5.3 Administrative penalties

- (a) As an alternative to, or in addition to, any other sanctions provided for in N.J.A.C. 12:58-5.2, pursuant to N.J.S.A. 34:2-21.1 et seq., when the Commissioner finds that an employer has violated that Act, the Commissioner is authorized to assess and collect administrative penalties in the amounts that follow:

1. First violation-not more than \$250.00;
2. Second and subsequent violations-not less than \$25.00 nor more than \$500.00.

- (b) No administrative penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification by certified mail of the violation and the amount of the penalty and an opportunity to request a formal hearing. A request for a formal hearing must be received within 15 business days following the receipt of the notice.

1. If a hearing is not requested, the notice shall become a final order upon the expiration of the 15 business days following the receipt of the notice.
2. If a hearing is requested, the Commissioner shall issue a final order upon such hearing and a finding that a violation has occurred.
3. All wages due, fees and penalties shall be paid within 30 days of the date of final order. Failure to pay such wages due, fees and/or penalty shall result in a judgment being obtained in a court of competent jurisdiction.

4. All payments shall be made payable to the Commissioner of Labor and Workforce Development, Child Labor Account. All payments shall be made by certified check or money order, or payable in a form suitable to the Commissioner of Labor and Workforce Development.
- (c) When the Commissioner assesses an administrative penalty pursuant to this chapter, the Commissioner shall consider the following factors, where applicable, in determining what constitutes an appropriate penalty for the particular violations:
1. The seriousness of the violation;
 2. The past history of previous violations by the employer;
 3. The good faith of the employer;
 4. The size of the employer's business; and
 5. Any other factors which the Commissioner deems to be appropriate in the determining of the penalty assessed.

12:58-5.4 Hearings

- (a) When the Commissioner assesses an administrative penalty under N.J.A.C. 12:58-5.3, the employer shall have the right to a hearing pursuant to (b) below.
- (b) No administrative penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification by certified mail of the violation and the amount of the penalty by and an opportunity to request a formal hearing. A request for a formal hearing must be received within 15 business days following the receipt of the notice.
- (c) All requests for hearing will be reviewed by the Division of Wage and Hour Compliance to determine if the reason for dispute could be resolvable at an informal settlement conference. If the review indicates that an informal conference is warranted, such conference will be scheduled. If a settlement cannot be reached, the case will be forwarded to the Office of Administrative Law for a formal hearing.
- (d) The Commissioner shall make the final decision of the Department.
- (e) Appeals of the final decision of the Commissioner shall be made to the Appellate Division of the New Jersey Superior Court.
- (f) If the employer, or a designated representative of the employer, fails to appear at a requested hearing, the Commissioner or his or her designee may, for good cause shown, re-schedule a hearing.
- (g) If the Commissioner does not authorize such a re-scheduled hearing, then the Commissioner shall issue a final agency determination effective upon the date set for the original hearing.
- (h) Payment of the penalty is due when a final agency determination is issued.
- (i) Upon final order the penalty imposed may be recovered with cost in summary proceeding commenced by the Commissioner pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

APPENDIX A Availability of Standards and Publications Referred to in this Chapter

A copy of each of the standards and publications referred to in this chapter is on file and may be inspected at the following office within the Labor Standards and Safety Enforcement program area between the hours of 9:00 a.m. and 4:00 p.m. on normal working days:

New Jersey Department of Labor & Workforce Development
Labor Standards and Safety Enforcement
John Fitch Plaza
Trenton, New Jersey

Copies of the referenced standards may be obtained from the organizations listed below. The abbreviations preceding these standards and publications have the following meaning and are the organizations issuing the standards and publications listed.

CFR	Code of Federal Regulations Copies available from: Superintendent of Documents U.S. Government Printing Office Washington, D.C. 20420
NBS	National Bureau of Standards Copies available from: Superintendent of Documents U.S. Government Printing Office Washington, D.C. 20420
N.J.S.A.	New Jersey Statutes Annotated Copies available from: Division of Wage and Hour Compliance New Jersey Department of Labor & Workforce Development PO Box 389 Trenton, N.J. 08625-0389

No. and Edition	Title
29 CFR Part 1910	General Industry Standards of Occupational Safety and Health Administration of the U.S. Department of Labor
NBS Handbook No. 69-1959	Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure
N.J.S.A. 13:1F-1 et seq.	Pesticide Control Act of 1971